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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/489,134	01/21/2000	William J. Baer	STL000012US1	5405

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EXAMINER

PHAM, HUNG Q

ART UNIT	PAPER NUMBER
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2172

DATE MAILED: 10/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Advisory Action**

Application No.

09/489,134

Applicant(s)

BAER ET AL.

Examiner

HUNG Q PHAM

Art Unit

2172

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 17 September 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-99.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_.

Applicants amended claims 1, 31 and 61 in the amendment received on 09/17/2003, the amended object representing a subset of the collection of content and creating a hierarchical compilation of the content represented by each selected object, which raise new issues that would require further consideration and/or search.

**As argued by applicants:**

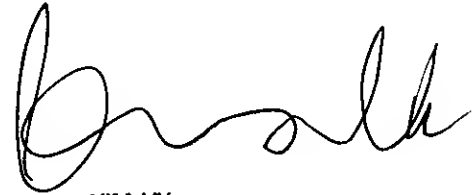
Claim 30 recites, *inter alia*, "creating a compilation from a plurality of content objects stored in a data repository, each content object comprising a plurality of hierarchically related content entities" and "in response to selection of ones of the hierarchically related elements to include in a hierarchical compilation, creating a compilation from the selected content entities" (*see also* claims 60 and 90). Applicants respectfully submit that Hufford fails to teach or suggest these features of claims 30, 60 and 90.

For example, the data blocks comprising the source segments of Hufford do not correspond to the recited "hierarchically related content entities" because the data blocks are not hierarchically related to one another. Additionally, as noted above, while the source segments of Hufford may be selectable by a user, the data blocks comprising the source segments are not selectable by a user. Thus, Hufford fails to teach or suggest "selection of ones of the hierarchically related elements".

In response to applicant's arguments, the recitation *hierarchically related content entities* has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. *See In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

Regarding to claims 30, 60 and 90, as shown in Hufford FIG. 1 is a sequence generator 10, which includes a data storage library 14 comprised of data blocks corresponding to audio tracks, MIDI data, video clips, animation and a block sequence compiler 16. A user interface 17 enables a user to select a source segment 28 from the data storage library 14 and prescribe duration via a keyboard and/or mouse and a display monitor for displaying the list of sequence (Col. 3, lines 10-35; Col. 1, lines 31-34; Col. 10, lines 34-35). The block sequence compiler 16 receives the information, fetches blocks of audio and/or video source information from the data storage library 14 and, according to compilation criteria, compiles a list of potential audio and/or video sequences that are temporarily stored within a potential block sequence list depository 19 (Col. 3, lines 35-57). As shown in FIG. 2, an audio and/or video source segment 28 is divided into five blocks: A, B, C, D, E, and F where the sequence ABCDEF corresponds to the audio and/or video source segment 28. After the process of marking as one of compilation criteria to indicate which blocks will be the beginning and which blocks will be the end for a potential audio or video output sequence as shown in FIG. 3 A-B (Col. 4, lines 13-50), the original audio or video

sequence is rearranged into three potential sequences ABCDEFGJ, ABCDEFHE, CDEFGHIJ as shown in FIG. 5 (Col. 5, lines 15-19). The technique of branching, rearranging an audio or video segment into a number of specific units and owning by a higher level unit indicates the segment is a hierarchical segment, and a source segment 28 as *ones of the hierarchically related elements to include in a hierarchical compilation* is selected by a user and the Hufford compilation technique is a hierarchical compilation. Thus, the Hufford technique as discussed above illustrates the claimed *in response to selection of ones of the hierarchically related elements to include in a hierarchical compilation, creating a compilation from the selected content entity*.



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